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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/766,656	01/27/2004	Robert J. Wright	71699-010100	3976

33717 7590 06/15/2007  
GREENBERG TRAURIG LLP (LA)  
2450 COLORADO AVENUE, SUITE 400E  
INTELLECTUAL PROPERTY DEPARTMENT  
SANTA MONICA, CA 90404

EXAMINER
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WEBER, CHRISTOPHER STEVEN

ART UNIT	PAPER NUMBER
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3714

MAIL DATE	DELIVERY MODE
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06/15/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

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## Office Action Summary

Application No.

10/766,656

Applicant(s)

WRIGHT, ROBERT J.

Examiner

Christopher S. Weber

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-63 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-63 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 January 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. ____.                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>1/14/2004 &amp; 8/13/2004</u>                                 | 6) <input type="checkbox"/> Other: ____.                          |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-9, 12-21, 24-26, 53-59, 62 and 63 are rejected under 35 U.S.C. 102(e) as being anticipated by Ghela US Patent 6,840,857 (Hereinafter Ghela).

3. Regarding at least claims 1, 2, 8, 9, 13, 14, 20, 21, 25, 26, 53, 58, 59 and 63, Ghela discloses guaranteeing payment of a prize in a game of chance, specifically a ticket lottery, Col 2 Lines 37-42, in exchange for a percentage of ticket sales (player purchasing the insured ticket); the guarantee occurs before the revenue is because the ticket is marketed as guaranteed (insured) before purchase; and then the operator would receive the revenue (ticket purchase price) Col 2 lines 51-58; the guarantee is effectuated to a jurisdiction, that being the state or organization running the lottery; Ghela discloses this guarantee is insurance which is assuming some form of risk, as all insurance does; regarding the idea of a receiving system for receiving revenue, it is inherent that a sale of anything requires the receiving of consideration, in this case ticket revenue, on the part of the selling party.

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4. Regarding at least claims 3-5, 15-17 and 54-56, Ghela discloses the prize as being a jackpot Col 2 line 40, a portion of the Jackpot (a portion including 100%); a secondary prize being the additional tax payments, Col 4 Line 62 – Col 5 Line 5.
5. Regarding at least claims 6, 7, 18, 19 and 57, Ghela discloses that the very concept of a lottery is the prize can be much larger than the revenue. Col 1 Line 10-15.
6. Regarding at least claims 12, 24 and 62 Ghela disclose that this lottery can be conducted with tickets purchased at some point of sale. Col 1 Lines 10-15.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:
  1. Determining the scope and contents of the prior art.
  2. Ascertaining the differences between the prior art and the claims at issue.
  3. Resolving the level of ordinary skill in the pertinent art.
  4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
9. Claims 35, 36, 40-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ghela. Ghela discloses all of the claimed limitations as described above in a manual fashion. According to MPEP 2144.04 III and *In re Venner*, The court held that

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broadly providing an automatic or mechanical means to replace a manual activity which accomplished the same result is not sufficient to distinguish over the prior art.

10. Claims 10, 11, 22, 23, 27-34, 37-39, 60 and 61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ghela as applied to claims 1, 14, 26 and 53 above, in further view of Walker et al. US Patent 6,869,362 (Hereinafter Walker). Ghela does not explicitly disclose a video lottery terminal, connection to the Internet, poker, blackjack, slot machines, casinos, wide or local area networks. Walker discloses these at Col 1 Lines 22-36 and Col 4 Line 64 – Col 5 Line 7. It would have been obvious to one of ordinary skill in the art at the time of the invention to combine the features of Walker with Ghela in order to incorporate more games of chance as taught by Ghela in Col 1 Lines 11-12.

11. Claim 45-52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker in view of Ghela. Walker discloses transmitting a guarantee over a network; the guarantee is in exchange for a percentage of the wager, specifically whatever percentage of the wager constitutes the insurance Abs, Fig 1, 2 and 10A; an item that receives the guarantee, Fig 13, 1330 and 1355, and item that performs a game of chance for the player in a gaming machine, Fig 1; local and wide networks as well as the internet Col 4 Line 64- Col 5 Line 7. Walker does not specifically disclose guaranteeing a prize but instead insuring losses, although based on publicly held rates of return insuring a loss could be thought of as guaranteeing a win. Ghela specifically

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discloses guaranteeing that a prize will be paid. It would have been obvious to combine this concept from Ghela with the insurance system in Walker. Both are systems that distribute risk, specifically here who pay what prizes. By combining the systems Walker would better be able to protect certain customer assets while still improving revenue as taught extensively throughout both Ghela and Walker.

12. **Examiner's Note:** Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher S. Weber whose telephone number is 571-272-3064. The examiner can normally be reached on Monday - Friday 7am - 4:00pm.

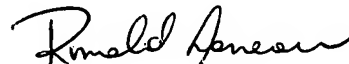
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert E. Pezzuto can be reached on 571-272-6996. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CSW

  
RONALD LANEAU  
PRIMARY EXAMINER  
6/8/07